



Administrative Manual

Nevada Public Employees' Deferred Compensation Program

Updated June 2013

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Definitions

The same definitions apply in this Administrative Manual as are designated in the *Plan Document* for the State of Nevada Public Employees Deferred Compensation Program and in Nevada Revised Statutes (NRS) 287.250 et seq.

Article I Mission and Goals

1.1 - Mission

The Nevada Public Employees Deferred Compensation Program (NDC or Program), a voluntary tax-deferred supplemental savings plan created pursuant to section 457(b) of the Internal Revenue Code, provides participants and their beneficiaries with a supplement to their retirement savings. The Program operates solely in the interest of plan participants and beneficiaries. The Committee, appointed by the Governor pursuant to NRS 287.325, oversees the Program and strives to provide quality investment options at minimal costs while maintaining high standards of customer service. The Committee and its Program Coordinator monitor the Recordkeepers (also referred to as Providers or Administrators), communicate the importance of supplemental savings through seminars, newsletters and other informational efforts, and administer the Program in accordance with state and federal guidelines. All Program expenses are paid by the Plan participants and are subsidized through the revenue sharing of the individual investment options.

1.2 - Primary Goals

- (a) Exercise functions solely in the interest of the participants and beneficiaries, and be responsive and flexible to meet participants' needs;
- (b) Promote the collective best interests of the participants in the Program (Section 1(b) of NRS 287.330);
- (c) Provide a selection of investment options in accordance with the Program's Statement of Investment Policy and ensure that the options represent a reasonable choice as to investment risk, return, style, and asset class; and
- (d) Ensure that Recordkeepers provide quality service to the participants.

1.3 - FICA-Alternative Plan Mission

Part-time, seasonal, and temporary employees of the State of Nevada or the Nevada System of Higher Education are required to participate in the Nevada FICA Alternative Deferred Compensation Plan, if hired on or after January 1, 2004 (State Government) or July 1, 2005 (Higher Education).

FICA is the Federal Insurance Contributions Act. This is an alternative to Social Security coverage as permitted by the federal Omnibus Budget Reconciliation Act of 1990

(OBRA). By participating in the Plan, Participants are not subject to tax on compensation under the Old Age, Survivors and Disability Income portion of FICA. Participants are subject to the Medicare portion of FICA.

1.4 – Goals of FICA-Alternative Plan

The goal of this plan is to assist participants with maintaining an account for the purpose of capital preservation during their employment with the State of Nevada and/or the Nevada System of Higher Education.

1.5 - Program Rules and Regulations

The Program's Rules and Regulations are designated in the Program's *Plan Documents* for the State of Nevada Deferred Compensation Committee, the FICA Alternative Plan Document and in the Nevada Revised Statutes (NRS) 287.250 et seq.

Article II Legal and Procedural

2.1 - Federal Law

Nevada's Deferred Compensation Program plans are established under and intended to operate as a Section 457(b) plan under the Internal Revenue Code and related regulations and any amendments.

2.2 - State Law

The enabling statutes for the Plans are found in NRS 287.250 through 287.370.

2.3- Committee Documents

The Committee shall maintain and periodically review all plan documents in accordance with Section 457(b) of the Internal Revenue Code to establish and operate the Plans.

The Committee shall maintain and periodically review a Statement of Investment Policy to identify guidelines and procedures used by the Committee to review and evaluate the various investment options offered in the Program.

This Administrative Manual is intended to outline other policies and procedures of the Committee and Staff for Program administration.

2.4 - Committee Election Procedure

In accordance with NRS 287.330, the Committee at its first meeting each year shall designate one of its members to serve as Chair and one to serve as Vice-Chair of the Committee for a term of one year or until a successor has been designated.

2.5 - NAGDCA

The Program will maintain membership in the National Association of Governmental Defined Contribution Administrators (NAGDCA), including attendance at designated meetings, as appropriate and as funds are available.

Article III Coordination of Audits

The Program will routinely have audits conducted. Audits will include an annual financial audit conducted by an independent third party and a biennial compliance audit provided as a requirement of the Investment Consultant contract.

3.1 - Audit Objectives – Audits are performed for different purposes. Common audit objectives are:

- (a) To ensure compliance with federal and state laws, standards, rules and regulations.
- (b) To evaluate Program efficiency and effectiveness, including investment provider and payroll centers processes and procedures.
- (c) To attest to the validity of financial information
- (d) To ensure appropriate management control systems are in place.

3.2 - Audit Process – The audit process normally consists of the following elements:

- (a) Audit Assignment – The point at which it has been determined that an audit will be undertaken.
- (b) Initial Meeting – Staff meets with auditors to discuss audit process, scope and objectives.
- (c) Field Work – The auditors' procedures for obtaining audit evidence and developing findings and recommendations. The type and extent of field work will vary according to the objectives of the audit. For example, field work may entail detailed investment provider transaction-by-transaction review, payroll center(s) contribution review or may only consist of a review of the processes and procedures.
- (d) Closing – Auditors formally present findings to Staff.
- (e) Response – The opportunity for investment providers and payroll centers to respond to the auditor's findings and recommendations.
- (f) Follow-Up – Staff and auditors follow the progress toward resolution of audit issues.

Staff and auditors, if appropriate, will present a final report, including action steps for appropriate solutions, to the Committee.

Article IV Records Retention

The Program will meet the requirements on the General Records Retention and Disposition Schedules (NRS 239.080). The most current version is available through the Records Management Program and at:
<http://nsla.nevadaculture.org/dmdocuments/generalschedules.pdf>

Article V Committee Operation

5.1 - Meeting Schedule

The Committee will endeavor to meet quarterly, to review the status of investment offerings and conduct other business of the Program. Special meetings may be called by the Chair as necessary.

5.2 - Meeting Agenda

The meeting agenda will be drafted by Staff and circulated to Committee members for input. The final agenda will be approved by the Chair and posted by Staff in accordance with Nevada's Open Meeting Law (NRS 241.020(3)(a)), which requires that notice of a meeting be posted no later than 9:00 am on the third working day prior to the meeting.

5.3 - Committee Action

If a quorum (at least 3 members) is present at meetings, action can be taken by the Committee. Motions will be passed or voted down by a simple majority vote. The Chair is eligible to vote on all motions. Committee members may participate at meetings via telephone, videoconference, or other appropriate electronic media approved by the Committee and shall be treated as present for the purpose of determining a quorum, voting on motions, and other lawful actions of the Committee. Meetings will be conducted in accordance with standard rules of order that the Committee may adopt from time to time.

5.4 - Meeting Record

Minutes shall be prepared, formally approved and maintained pursuant to statutory guidelines (see NRS 241.035). Members of the public may request their names be placed on the mailing or e-mail list for distribution of agendas. Documents provided to the Committee during meetings will be provided to members of the public upon request, as appropriate, or posted the Program's website.

The Committee welcomes the participation of Plan participants and the public. There will be two comment periods allowing for three minutes of public comment with the first comment period allowing for public comment relative to items on the agenda for the

meeting, and the second allowing for public comment on any item under the jurisdiction of the Committee.

5.5 - Budget Review and Approval

Staff will meet with appropriate Department of Administration staff to develop a budget for submission to the Governor upon approval of the Committee and provide status updates of the Program budget during the quarterly meetings. The Committee will formally approve the budget submission for inclusion in the biennial Executive Budget.

Article VI Plan Administration

6.1 - Activity reports

Staff will provide quarterly activity reports to the Committee, including, but not limited to reports on the overall Plan activities of Recordkeepers, making comparisons when appropriate concerning plan assets, new enrollments, increase/decrease contribution amounts, etc. Staff will focus primarily on the administrative activities of the Program.

6.2 - Analysis of Investment Performance

An analysis of investment performance will be reviewed by the Committee at its quarterly meetings. The report prepared by the investment consultant (see definition in Article VII, Section 7.6) shall include investment option performance, in-depth economic market data, asset allocation, updates on the fund watch list, and other information as necessary for proper monitoring.

6.3 - Quarterly Newsletter

Staff shall publish a quarterly newsletter for Participants. Newsletters shall be published whenever possible in March (spring issue), June (summer), September (fall), and December (winter).

6.4 - Fund Settlement Policy

All fund settlement amounts will be calculated based on the effected fund(s), shareholders and timeframe of the settlement. Identified shareholders will receive settlement monies in accordance with their proportionate share based on their account balances at the time of the settlement. Shareholders due less than \$10 will not receive payment, rather this amount will be returned back to the other eligible shareholders. If settlement amounts and calculations determine all shareholders are ineligible due to the \$10 di minimus then the amounts will be used for Plan expenses.

6.5 - Unused Plan Expenses

Following the end of each calendar year, Staff will calculate the amount of expenses paid by providers versus amounts contractually guaranteed. In the event that the amount billed to the providers for expenses is less than that which is contractually

guaranteed for any given plan year, the Recordkeepers will remit payment of the remaining amount 60 days following the end of the plan year at the direction of the Nevada Deferred Compensation Staff. Unused plan expenses will be credited to participant accounts proportionately based on their end of the year (December 31) account balance. Participants whose credit is less than \$10 will not receive any unused plan expenses; rather these monies will be distributed to the other eligible participants whose account balances are greater than \$10 in the same manner described above.

Article VII Roles, Responsibilities and Duties

7.1 - Committee

The Committee is responsible to meet on a quarterly basis and conduct its business in accordance with the mission and primary goals as outlined in Article I of this document, along with the applicable state laws and federal requirements for the Plan. In order to discharge their fiduciary duties, members of the Committee are responsible for preparing for and participating in meetings of the Committee.

7.2 - Staff

Staff is responsible for the daily administration of the Program. The Program Coordinator is responsible for the following:

- Operations management, including but not limited to the day to day oversight; employer relations; budget oversight; and customer service.
- Committee business management, including but not limited to preparation of agendas and meeting materials.
- Contractual relationship management, including but not limited to Administrator and investment management oversight and legislative management.

The Committee at its discretion may contract with an independent employment company to employ a part-time administrative assistant to assist with meeting preparation, transcription of minutes, processing participant change forms, and other duties as assigned by the Program Coordinator or the Committee.

7.3 – Program Coordinator’s Review Process

The Committee will conduct a performance review annually at the scheduled meeting closest to the hiring anniversary date of the Program Coordinator. The Committee will also review and approve any potential compensation changes based on current level as well as legislative action as it relates to all state employees.

7.4 - Legal Counsel

The Attorney General’s Office provides legal counsel to the Committee. The Deputy Attorney General assigned to the Program is responsible for reviewing all contracts and

other legal documents and to provide legal advice and assistance relating to the work of the Committee and Staff.

7.5 – Alliance Partners

The Committee at its discretion may allow local government entities to join the Program. Staff will work with legal counsel and the entity's designated representative to ensure the proper documentation is obtained to join the Program. Staff will periodically meet with alliance partner representatives to ensure compliance with current federal and state rules and regulations.

Eligible alliance partner representatives will submit a Program Certification which will include acknowledgement of the receipt of the following items:

- Interlocal Agreement
- Plan Document, including any amendments
- Plan Summary
- Investment Policy Statement
- Administrative Manual

The designated representative(s) (Deferred Compensation Liaison) will complete the necessary certification. Staff will work with each Deferred Compensation Liaison to ensure each entity has an understanding of the Program requirements.

Staff will work with eligible governmental entities to ensure the following are being administered in accordance to Plan rules and regulations:

- Per IRC Section 414(h), pick-up contributions for participants who contribute to Nevada PERS "employee paid" system are being excluded from participant contributions based on percentage of pay;
- Data and money remittances must be sent electronically; and
- Working with the service provider(s) to ensure participants are not exceeding the Internal Revenue Code annual contribution limits.

7.6 - Professional Advisors

The Committee shall employ qualified advisors to discharge its fiduciary duty. Investment consultant(s) shall be retained to ensure the Plan funds are invested effectively with proper risk controls. Committee members are not liable for investment decisions made by Plan members provided advisors are qualified and proper investment policies are in place and monitored.

7.7 - Recordkeeper(s)

Staff and Recordkeeper(s) will work to ensure the following are being administered in accordance with Plan rules and regulations:

- To ensure compliance with IRC Section 402(g), excess deferrals must be distributed to the participant, with allocable net income, as soon as

administratively practicable after the Plan/Recordkeepers determine that the amount is an excess deferral. The excess deferral amount is always taxed in the year it was contributed to the plan, and the earnings are taxed in the year distributed. Governmental plans report excess deferrals on Form 1099-R. Please note amounts of less than \$1 will not be refunded or corrected.

- Data and money remittances must be sent electronically.
- Work with the eligible governmental entities to ensure participants are not exceeding the IRC annual contribution limits.

Article VIII Code of Ethics

As Committee members appointed by the Governor and Program Staff appointed by the Committee, as well as public employees of the State in most cases, members of the Committee and Staff are subject to the provisions of the Nevada Ethics in Government Law in NRS 281A.010-281A.660, inclusive. Committee members and Staff are encouraged to review the entire chapter and be especially familiar with the general requirements of the Code of Ethical Standards in NRS 281A.400, as well as Executive Order 2011-02 *Establishing Ethics Requirements for Certain Public Officers and Employees*, signed by the Governor January 3, 2011.

The keys to interpretation of the ethics statutes are reasonableness, objectivity, and disclosure. If any Committee members or Staff have questions concerning specific situations, they should feel free to consult with the Chair and the Deputy Attorney General representing the Deferred Compensation Program. The following are excerpts from the Code of Ethical Standards which are most relevant to the business of the Deferred Compensation Committee.

NRS 281A.400 Subsection 1 provides that a public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

NRS 281A.400 Subsection 2 provides that a public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.

NRS 281A.400 Subsection 5 provides that if a public officer or employee acquires, through the public officer's or employee's public duties or relationships, any information which by law or practice is not at the time available to people generally, the public

officer or employee shall not use the information to further the pecuniary interests of the public officer or employee or any other person or business entity.

NRS 281A.400 Subsection 10 provides that a public officer or employee shall not seek other employment or contracts through the use of his official position.

Additional standards pertinent to the Committee are set forth in NRS 281A.420 Subsection 1. This subsection provides that a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

- (a) Regarding which the public officer or employee has accepted a gift or loan;
- (b) In which the public officer or employee has a pecuniary interest; or
- (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interest of others, without disclosing sufficient information concerning the gift, loan, interest or commitment to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's pecuniary interest, or upon the persons to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body.

NRS 281A.420 Subsection 3 states: Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

- (a) The public officer's acceptance of a gift or loan;
 - (b) The public officer's pecuniary interest; or
 - (c) The public officer's commitment in a private capacity to the interests of others.
4. In interpreting and applying the provisions of subsection 3:
- (a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's pecuniary interest or the public officer's commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of others, accruing to the other persons, is not greater than that accruing to any other member of the general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.
 - (b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon

a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, the public officer's pecuniary interest or the public officer's commitment in a private capacity to the interests of others in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, the public officer's pecuniary interest or the public officer's commitment in a private capacity to the interests of others.

Article IX Educational Travel and Conferences

The Committee and its Program Coordinator are charged with exercising fiduciary responsibility for the Program solely in the interest of the participants and their beneficiaries. As fiduciaries, they are expected to be capable of carrying out their duties and responsibilities. To accomplish this, subject to Committee approval, Committee members and Staff shall avail themselves of educational opportunities to secure adequate training to fulfill those responsibilities, including attendance at appropriate off site meetings or events.

Subject to budgetary limitations, each Committee member and Staff shall have the opportunity to attend the NAGDCA Annual Conference, with all conference fees, airfare, lodging and any other reasonable expenses paid by the program. Committee members and Staff may attend other educational conferences to meet training needs subject to approval by the Committee and the availability of funds.

Article X Travel Policy

All Committee Member and Staff travel will be in accordance with State Administrative Manual (SAM) 0200 and NRS 281.160.